

PROVIDENCE CITY COUNCIL MEETING AGENDA

August 25, 2015 6:00 p.m.
15 South Main, Providence UT

The Providence City Council will begin discussing the following agenda items at 6:00 p.m. Anyone interested is invited to attend.

Call to Order: Mayor Calderwood
Roll Call of City Council Members: Mayor Calderwood
Pledge of Allegiance:

Approval of the minutes

Item No. 1. The Providence City Council will consider approval of the minutes of August 11, 2015 City Council meeting.

Public Comments: Citizens may appear before the City Council to express their views on issues within the City's jurisdiction. Comments will be addressed to the Council. Remarks are limited to 3 minutes per person. The total time allotted to public comment is 15 minutes. The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

Business Items:

Item No. 1. Primary Election Canvass. The Providence City Council, acting as the Board of Canvassers, will canvass the returns for the 2015 Primary Election.

Item No. 2. Resolution 033-2015. The Providence City Council will consider for adoption a resolution appointing Julie Barker to the Providence City Historic Preservation Commission.

Item No. 3. Resolution 036-2015. The Providence City Council will consider for adoption a resolution appointing Barry Nielsen as an alternate on the Providence City Planning Commission.

Item No. 4. Ordinance 2015-019. The Providence City Planning City Council will consider for adoption an ordinance amending Providence City Code Title 10 Zoning Regulations, Chapter 5 Overlay Zones regarding Hazard slope zones, engineering geotechnical report, and disclosures of other natural hazards.

Staff Reports: Items presented by Providence City Staff will be presented as information only.

Council Reports: Items presented by the City Council members will be presented as informational only; no formal action will be taken. The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

Agenda posted the 20 day of August 2015.


Skarlet Bankhead
City Recorder

If you are disabled and/or need assistance to attend council meeting, please call 752-9441 before 5:00 p.m. on the day of the meeting.

Pursuant to Utah Code 52-4-207 Electronic Meetings – Authorization – Requirements the following notice is hereby given:

- Providence City Ordinance Modification 015-2006, adopted 11/14/2006, allows City Council member(s) to attend by teleconference.
- The anchor location for this meeting is: Providence City Office Building, 15 South Main, Providence, UT.
- Member(s) will be connected to the electronic meeting by teleconference.

1 **PROVIDENCE CITY COUNCIL MEETING MINUTES**

2 **August 11, 2015 6:00 p.m.**

3 **15 South Main, Providence UT**

4
5 Call to Order: Mayor Calderwood

6 Roll Call of City Council Members: Mayor Calderwood

7 Attendance: Bill Bagley, Jeff Baldwin, Ralph Call, John Drew, John Russell

8 Pledge of Allegiance: Mayor Calderwood

9
10 **Approval of the minutes**

11 **Item No. 1.** The Providence City Council will consider approval of the minutes of July 21, 2015 City Council meeting.

12 **Motion to approve the minutes: J Drew, second – R Call**

13 Page 1, Line 33 –sharing in the appraisal costs

14 **Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell**

15 **Nay: None**

16 **Abstained: None**

17 **Excused: None**

18 **Public Comments:** Citizens may appear before the City Council to express their views on issues within the City's
19 jurisdiction. Comments will be addressed to the Council. Remarks are limited to 3 minutes per person. The total
20 time allotted to public comment is 15 minutes The City Council may act on an item, if it arose subsequent to the
21 posting of this agenda and the City Council determines that an emergency exists.

- 22 • Derrick Miller, 330 W., Providence, asked about the law suit involving the development on 330 West
23 (Sunrise Acres development). He feels it is a good idea to have more neighbors. He proposes to make that
24 a cul-de-sac rather than make it a street all the way to the end. He would like to see it move forward and
25 developed into neighborhoods.
- 26 • Mayor said based on ordinances and codes, there is a limit as to the length allowed for a cul-de-sac. 330
27 West needs to be a street as it already exceeds the allowable length for a cul-de-sac.
- 28 • R Eck said the developer could have been developing for the past year, but for whatever reason has
29 stopped development. He is planning on taking that street through.
- 30 • R Call said the easement of 2100 South has been in litigation for several years.
- 31 • D Miller asked if there could be any exceptions to the ordinance regarding a cul-de-sac.
- 32 • R Eck said the City cannot take any property from the developer, and that would require a taking.
- 33 • Nate Stokes said he owns a lot and would like to start building on that lot and wonders if and when he will
34 ever be able to build on his lot. He asked if just one lot could be released or if all of them have to be
35 released at the same time.
- 36 • R Eck said it is probably not financially advantageous for the developer to put in all the infrastructure just
37 for one house, and he (Randy) is not in favor of running utility lines, pavement, etc. just for one house.

38 **Public Hearing 6:15 pm:** The purpose of the public hearing is to provide an opportunity for anyone interested to
39 comment on the proposed budget adjustment (moving money that was allocated for projects that were to start
40 during the 2015 Budget year and are continuing during the 2016 Budget year) for Fiscal Year 2016 for the Capital
41 Project, Water, Sewer, Storm Water Funds before action is taken. The City Council invites you to attend the
42 hearing in order to offer your comments/suggestions.

- 43 • No public comments.

44 **Business Items:**

45 **Item No. 1. Resolution 029-2015.** The Providence City Council will consider for adoption a resolution amending the
46 Providence City 2016 Budgets for Capital Project Fund, Water Fund, Sewer Fund, and Stormwater Fund.

47 **Motion to accept Resolution 029-2015: B Bagley, second – J Baldwin**

- 48 • S Bankhead said there were several projects that were discussed and allocated in the later part of the
49 2015 budget year, but were not completed. The money that was allocated in the 2015 budget needs to be
50 moved forward to the 2016 budget in order to finish these projects.
- 51 • J Drew asked about encumbrance accounting.
- 52 • S Bankhead said the City does not do that. Only a portion of what is completed on a project could be
53 encumbered.

- J Russell asked about the breakdown for the remodel costs for the Gateway building. He was not inclined to move monies forward until he sees the breakdown.
- S Bankhead said the remodel design is still in progress and she is waiting for those numbers to come in.
- R Call said he opposed the building, so he is opposing the budget adjustment.
- J Drew asked if these issues could be separated or if it needs to be done in one whole.
- S Bankhead said some funds need to be moved forward in order to get the engineering cost estimate and remodel cost estimates for the building remodel. She felt \$5,000 would be enough to get it through design and to the bid phase.

Motion to adopt Resolution 029-2015 with the following changes: Item 3 - \$295,175.12 forward from water for storage and construction for the Edgehill Project and HWY 165; Item 4 - \$6,968.04 forward from sewer for Hyrum, Nibley, Providence wastewater treatment; Item 6 - \$82,000 forward from sewer for HWY 165 utility crossing; and \$5,000 forward from capital project fund for engineering costs for the Gateway building to the 2016 budget: J Russell, second – J Baldwin

Vote: Yea: Bagley, Baldwin, Russell
 Nay: Call, Drew
 Abstained: None
 Excused: None

Item No. 2. Resolution 030-2015. The Providence City Council will consider for adoption a resolution appointing Gail Trowbridge to the Providence City Historic Preservation Commission.

Motion to approve Resolution 030-2015: J Russell, second – J Baldwin

- Mayor introduced Gail Trowbridge stating she has the desire and time to serve.
- R Call asked what projects she would consider for historical preservation and teaching the history of Providence.
- G Trowbridge said loves history and Providence. She has lived here for 50 years. She is well acquainted with the people of Providence. She has a deep love for the city and would like to help preserve the history of Providence and help new people understand why this is such a great place to live.
- J Drew asked what ideas she has for getting more people (newer residents) interested and involved in the history of Providence.
- G Trowbridge said she would like to bring back some of the historical events that used to be part of Providence community.
- J Russell asked if there were any events from the Cache Historical Society that could be incorporated into the community.
- G Trowbridge said the DUP was a wonderful group and thought there could be some way of sharing the history from DUP with the residents of Providence through pictures and lectures.
- J Baldwin said he appreciated her interest in and willingness to serve in the community.
- G Trowbridge said she loves history and has a pioneer heritage. She appreciates the importance of preserving the history of Cache Valley communities.

Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell
 Nay: None
 Abstained: None
 Excused: None

Item No. 3. Resolution 034-2015. The Providence City Council will consider for adoption a resolution appointing William Baker as an alternate on the Providence City Planning Commission.

Motion to approve Resolution 034-2015: J Baldwin, second – B Bagley

- Mayor introduced William Baker stating he is a former Mayor of River Heights.
- William Baker said he is retired, worked with power engineering, tech support for an electrical distributor with variable frequency drives, has been a councilman and mayor for River Heights. Feels as a resident, he has an obligation to volunteer in any capacity.
- J Russell asked him to discuss his experience as Mayor and as planning and zoning member for River Heights.
- W Baker said there is a misconception in the duties of planning and zoning. He feels Planning and Zoning's place is to evaluate proposed changes to see if those changes meet the needs of the City and are in

compliance with the code. If they do, then the information is passed on to the City Council, who makes the decisions.

- R Call asked if W Baker is aware of the time commitment to serve on planning commission.
- W Baker said he is aware and is willing to serve.
- B Bagley asked what his recommendations were city as far as planning for the future of Providence.
- W Baker said that is a decision for the Council. His concern for future growth is water which will be limited in the future. He feels like the more Cache Valley develops, the more Salt Lake City will come after that water. Long range development has to take water into consideration.
- B Bagley asked about transportation.
- W Baker said he wants the transit authority to start charging for the services they provide. He did not feel they should be giving free rides.

Vote: **Yea:** **B Bagley, R Call, J Drew, J Russell**
 Nay: **J Baldwin**
 Abstained: **None**
 Excused: **None**

Item No. 4. Resolution 031-2015. The Providence City Council will consider for adoption a resolution approving the Development and Public Improvement Installation Agreement for the Bungalow Subdivision. A 2-lot residential subdivision located generally at 486 Canyon Road.

Motion to adopt Resolution 031-2015: RCall, second – J Russell

- S Bankhead explained where this subdivision is located. The construction drawings are not included. She is waiting for Gary Knighton's signature so the date can be added. Does not require water dedication. Bonding amount is included. This is one building lot.

Vote: **Yea:** **B Bagley, J Baldwin, R Call, J Drew, J Russell**
 Nay: **None**
 Abstained: **None**
 Excused: **None**

Item No. 5. Resolution 032-2015. The Providence City Council will consider for adoption a resolution approving the Development and Public Improvement Installation Agreement for the Zollinger Subdivision; a 2-lot residential subdivision. The property is located at approximately 240 South 325 West, Providence.

Motion to approve Resolution 032-2015: J Baldwin, second – J Drew

- S Bankhead clarified some changes in the development agreement. The City is requiring 1 share of water from Blacksmith Fork Irrigation. Gary Knighton needs to sign construction drawings so the date can be inserted. \$10,000 needs to be added in up front to the bond amount for the 110% in case the clay material is not suitable. City will pay for a portion of construction cost on 325 West because it is adjacent to city property. She recommends amending the motion to include these changes.
- B Bagley asked if the sewer and manhole stubbing will stop further development going north.
- S Bankhead this sewer will flow south and any new development will flow north. This is as far north as it can go.
- R Eck said it will service the two homes, but not any future development.
- J Baldwin asked if the money for construction costs on 325 West is already allocated.
- S Bankhead said it is in road projects.

Motion to adopt resolution 032-2015 with the changes as discussed: J Baldwin, second – J Drew

Vote: **Yea:** **B Bagley, J Baldwin, R Call, J Drew, J Russell**
 Nay: **None**
 Abstained: **None**
 Excused: **None**

Item No. 6. Resolution 035-2015. The Providence City Council will consider for adoption a resolution selecting an auditor for the 2015 – 2019 Audits.

Motion to adopt Resolution 035-2015: B Bagley, second – J Drew

- J Russell said in the initial bid, the city received two bids. The ones we liked had findings that were not what we were hoping for. The bid was put out again, three proposals were received. He reviewed the bids that have come in. Ulrich & Associates was the least expensive, they are familiar with our software

package and have worked with a wide range of municipalities in the past. He suggests using Ulrich & Associates pending a clear audit.

- B Bagley said he would like to see at least a one year or a two year contract rather than a 5 year.
- J Baldwin asked how come we aren't using the same accounting firm that has been used in the past.
- S Bankhead said they increased the cost for their services. Evans & Poulsen, CPA, out of Burley, ID, did the peer review for Ulrich & Associates.

Motion to select Ulrich & Associates with a one year performance review and the option to renew the additional 4 years: B Bagley, second – J Baldwin

Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell

Nay: None

Abstained: None

Excused: None

Staff Reports: Items presented by Providence City Staff will be presented as information only.

S Bankhead:

- The invoice register was sent to the Council.
- Today is election day. Counting will resume at 8 pm. Canvas cannot be done sooner than 7 days after the election, but no longer than 14 days, so the canvas will be done at the August 25th meeting. The results are unofficial until the canvas board (city council) approves the count.
- B Bagley asked about provisional votes for primaries.
- S Bankhead said there were only two provisional ballots with this mail in election.
- R Call asked what kind of response there was in the voting.
- S Bankhead felt it was near 30%, which is a good count for voting. Even with mail in the total participation is still low. Mail in elections generally increase participation. Providence usually has good voter turnout.
- J Russell asked if any complaints had come forth.
- S Bankhead said only a couple. One complaint was about paying postage and the other complaint was lack on information on the candidates.
- B Bagley said he had a few residents ask about the security of the vote.
- S Bankhead said if the envelope was sealed correctly, the signatures are visible for verification, but when votes are counted, the signatures are turned over and not seen. It is a secure vote count. We have had to verify about 15 signatures.

R Eck:

- B Bagley asked what the bid amount of 400 South included.
- R Eck said it is the entire project.
- J Baldwin asked at what point is the City going to draw a line for homes on the current water system before new wells need to be drilled.
- R Eck said it is time to drill the next well now. Reservoirs are dropping, especially in the hot weather. Generally, people in Providence do not conserve water. Every year rights in use and maximum daily draw are reviewed and we only produce water as we use it. There is some ambiguity, but the City has a pretty good idea of its water supply.
- Mayor said we have twice as many rights as we are drawing water.
- R Eck said as bad as the water year has been, we haven't had to do any rationing. The system is operating very well.
- B Bagley asked if using secondary water on Braegger and Hampshire Parks has made a difference in culinary water.
- R Eck said it is too small to see a difference in culinary water, but using secondary water to irrigate is the right thing to do.
- B Bagley asked about Ignite Business Park and also about the retaining wall.
- R Eck said it worked out very nicely. He is happy with the access.
- B Bagley asked about utility billing on the invoice register.
- R Eck said it includes 10 parks, booster stations, wells, the shop, library, city office, sumps, street lights, etc are all billed for utility.

Council Reports: Items presented by the City Council members will be presented as informational only; no formal

1 action will be taken. The City Council may act on an item, if it arose subsequent to the posting of this agenda and
2 the City Council determines that an emergency exists.

- 3 • B Bagley – tax receipts down from last year. Kelley Electronics and Napa Auto Parts are both vacant in
4 commercial area.
- 5 • R Call asked about business traffic at Tractor Supply.
- 6 • R Eck said he spoke with a manager who says they are doing okay.
- 7 • S Bankhead said they would probably like to see more traffic. J Drew and B Bagley felt they needed to do
8 more advertising.
- 9 • J Drew – nothing to report.
- 10 • R Call – nothing to report.
- 11 • J Russell – nothing to report.
- 12 • J Baldwin – Planning Commission is working on front yard setbacks.
- 13 • Mayor had nothing to report.

14 **Motion to adjourn: J Drew, second – R Call**

15 **Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell**

16 **Nay: None**

17 **Abstained: None**

18 **Excused: None**

19 Meeting adjourned at 7:30 pm.

20 Minutes recorded and prepared by C Craven.

21
22
23
24
25
26 _____
Don W. Calderwood, Mayor

Skarlet Bankhead, City Recorder

Resolution 033-2015

A RESOLUTION APPOINTING JULIE BARKER TO THE PROVIDENCE HISTORIC PRESERVATION COMMISSION.

WHEREAS UCA § 10-7-717 Purpose of resolutions, states, "Unless otherwise required by law, the governing body may exercise all administrative powers by resolution . . ."

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses.

WHEREAS Providence desires to fill a vacancy on the Providence Historic Preservation Commission.

- Providence City Code 2-3-2:A. states, *"The Commission shall consist of five (5) members, with a demonstrated interest, competence or knowledge of historic preservation to be appointed by majority vote of the City Council, upon recommendation from the Mayor."*
- Julie Barker has expressed an interest in serving on the Historic Preservation Commission.
- Mayor Calderwood requests that the City Council consider Julie Barker for appointment as a member of the Providence Historic Preservation Commission.

THEREFORE be it resolved by the Providence City Council:

- The Julie Barker shall be appointed as a member of the Providence Historic Preservation Commission with her term expiring August 31, 2018.
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 25 day of August, 2015.

Council Vote:

Bagley, Bill	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Baldwin, Jeff	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Call, Ralph	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Drew, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Russell, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

Providence City

Don W Calderwood, Mayor

Attest:

Skarlet Bankhead, Recorder

Resolution 036-2015

A RESOLUTION APPOINTING BARRY NIELSEN AS AN ALTERNATE MEMBER OF THE PROVIDENCE CITY PLANNING COMMISSION

WHEREAS there is a vacancy on the Providence City Planning Commission for an alternate member:

- Providence City Code 2-1-1:C. states *"the City Council may appoint one (1) or two (2) alternate members of the Planning Commission, who shall serve in the absence of a member or members of the Planning Commission under rules established by the Planning Commission."*
- Barry Nielsen has expressed interest in serving on the Planning Commission.
- Mayor Calderwood requests that the City Council consider Barry Nielsen for appointment as an alternate member on the Providence City Planning Commission.

THEREFORE be it resolved by the Providence City Council:

- Barry Nielsen was considered for appointment to the Providence City Planning Commission as an alternate member; and
- Barry Nielsen is hereby appointed to serve as an alternate member, with his term beginning August 26, 2015 and expiring August 31, 2018; and
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 25 day of August, 2015.

Council Vote:

Bagley, Bill	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Baldwin, Jeff	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Call, Ralph	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Drew, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Russell, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

Providence City

Don W Calderwood, Mayor

Attest:

Skarlet Bankhead, Recorder

Ordinance No. 2015-019

AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE 10 ZONING REGULATIONS, CHAPTER 5 OVERLAY ZONES REGARDING HAZARD SLOPE ZONES, ENGINEERING GEOTECHNICAL REPORT, AND DISCLOSURES OF OTHER NATURAL HAZARDS

WHEREAS UCA § 10-9a-102.(2) states “. . . municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls . . .” and

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values in areas that may be considered sensitive, including but not limited to fire danger, slope, soil content.

- On February 24, 2015, the Providence City Council adopted Ordinance No. 2015-009, an ordinance establishing a temporary land use regulation for certain properties which are designated as including geologic hazards.
- Providence City desires to amend Providence City Code Title 10 Zoning Regulations, Chapter 5 Overlay Zones regarding Hazard slope zones, engineering geotechnical report, and disclosures of other natural hazards to include provisions and requirements from Ordinance 2015-009 .
- The Providence City Council considers the following Findings of Fact, Conclusions of Law, and Conditions.

Findings of Fact:

- Providence City Code (PCC) 10-1-5:A. states changes and amendments to this Zoning Title shall be done in accordance with state law.
- UCA § 10-9a-501 states the legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in in this chapter.
- UCA § 10-9a-502 Requires the planning commission provide notice and hold a public hearing on a proposed land use ordinance or zoning map; and prepare and recommend to the legislative body a proposed land use ordinance and zoning map that represent the planning commission's recommendation.
- UCA 10-9a-503.(1) The legislative body may amend: (b) any regulation of or within the zoning district; or (c) any other provision of a land use ordinance.

Conclusions of Law:

- Providence City Attorney, Craig Call prepared the attached draft for consideration.
- The Providence Planning Commission held a public hearing in accordance with UCA § 10-9a-502 on May 27, 2015
- The Providence Planning Commission took the following action on June 24, 2015:
Motion to recommend that City Council accept Title 10 Zoning Regulations, Chapter 5 Overlay Zones regarding hazard slope zones, engineering geotechnical report, and disclosures of other natural hazards: W Simmons, second – K Allen

1 Vote: Yea: K Allen, L Raymond, W Simmons
2 Nay: None
3 Abstained: None
4 Excused: H Hansen, R James, S Sanders

5 Conditions:
6 ○ None

7
8 THEREFORE be it ordained by the Providence City Council

- 9 • The attached code amendment, amending Title 10 Zoning Regulations, Chapter 5
10 Overlay Zones regarding Hazard slope zones, engineering geotechnical report, and
11 disclosures of other natural hazards, shall be approved based on the findings of fact,
12 conclusions of law, and conditions listed above and the recommendation of the
13 Providence City Planning Commission.
14 • This ordinance shall become effective immediately upon passage and posting.

15
16 Ordinance adopted by vote of the Providence City Council this 25 day of August 2015.

17
18 Council Vote:

19
20 Bagley, Bill ()Yes ()No ()Excused ()Abstained ()Absent
21 Baldwin, Jeff ()Yes ()No ()Excused ()Abstained ()Absent
22 Call, Ralph ()Yes ()No ()Excused ()Abstained ()Absent
23 Drew, John ()Yes ()No ()Excused ()Abstained ()Absent
24 Russell, John ()Yes ()No ()Excused ()Abstained ()Absent

25
26 Signed by Mayor Don W Calderwood this day of August 2015.

27
28 Providence City

29
30 _____
31 Don W. Calderwood, Mayor

32
33 Attest:

34 _____
35 Skarlet Bankhead, Recorder

CHAPTER 5

OVERLAY ZONES

SECTION:

- 10-5-1: Conditional Use Permit Required
- 10-5-2: Sensitive Areas
- 10-5-3: Hazard Flood Zone (HF)
- 10-5-4: Hazard Slope Zone (HS)
- 10-5-5: Hazard Water Table Zone (HW)
- 10-5-6: Hazard Earthquake Primary Fault Zone (HE)
- 10-5-7: Hazard Wildfire Zone (WF)
- 10-5-8: Engineering Geotechnical Report
- 10-5-9: Disclosure of Natural Hazard by Engineering Geotechnical Report

10-5-1: **CONDITIONAL USE PERMIT REQUIRED:** All requests for permits involving a lot, parcel or site located wholly or partially within an area designated on the Zoning Map as an overlay zone including; Hazard Flood Zone (HF), Hazard Slope Zone (HS), Hazard Water Table Zone (HW) or Hazard Earthquake Primary Fault Zone (HE), Hazard Wildfire Zone (WF), shall be dealt with as a request for a conditional use permit under the provisions of Section 10-3-5 of this Title. All applications shall comply with the following regulations before any permit shall be issued. (Zon. Ord., 5-8-1991) (Ordinance Modification 011-99 04/13/99)

10-5-2: **SENSITIVE AREAS (NDSA) AND (PDSA):**

A. Sensitive areas are defined as follows:

Non-developable
sensitive areas

The following areas are non-developable. None of the acreage encumbered by any of the following sensitive areas may be considered for development density, and none of the areas may be built upon or within except for required public utility and facilities. Any acreage encumbered by the following sensitive areas may be appealed to the Providence City Appeal Authority; and a determination of their development potential may be made.

1. Jurisdictional Wetlands As defined by the US Army Corps of Engineers.

2. Steep Slopes Where the rise or fall of the land is equal to or exceeds thirty percent (30%) over a horizontal distance of fifty feet (50') or greater (see Section 4 of this Chapter)

3. Natural
Waterways or
Open Water

Including but not limited to: rivers, creeks, or streams. Identified as those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetation litter or loosely rooted vegetation by action of moving water. The channel or bed need not contain water year round. This definition is not meant to include stormwater runoff devices or entirely artificial watercourse unless they are used to store or convey pass through stream flows naturally occurring prior to construction of such devices. Watercourses where the definition may apply are those that appear on the US geological survey quad maps excluding irrigation canals and ditches. For instance, an irrigation canal following a natural or jurisdictional watercourse would not be exempt but others would be exempt.

Potentially
developable sensitive
areas.

The following areas are determined to be sensitive areas of Providence City and are subject to the requirements of this Chapter. These areas may be built upon based on the requirements of this section and other applicable city, state, and federal requirements. All acreage encumbered by any of the following sensitive areas may be considered for development density at the discretion of the Providence City Planning Commission, based on recommendations from professional(s) with expertise in the field being discussed.

1. Steep Slopes

Where the rise or fall of the land is between twenty percent and thirty percent (30%) over a horizontal distance of fifty feet (50') or greater.
(see Section 4 of this Chapter)

- | | |
|-----------------------------------|---|
| 2. Floodplains | See definitions in Chapter 16 Section 3 of this Title. |
| 3. Crucial wildlife habitat areas | As identified by the State Division of Wildlife Recourses (DWR). |
| 4. Geological hazard areas | Earthquake fault lines or areas prone to debris flows, landslides, high or extreme liquefaction potential, and rock falls as identified by the US Geological Survey (USGS). |
| 5. Wildfire hazards areas: | Areas of the City designated as having moderate to extreme potential for wildfire hazards as identified by the City. |

B. Development of Sensitive Areas:

1. No land designated as a Non Developable Sensitive Area Overlay Zone may be considered for development density or disturbed in any manner during the development of adjacent lands except as reasonably necessary for the installation of required public utilities.
2. The lands within a Potentially Developable Sensitive Area Overlay Zone may be developed and built upon, subject to the requirements of this section and other applicable city, state, and federal requirements.
3. Land within a Potentially Developable Sensitive Area Overlay Zone may be considered for development density at the discretion of the Providence City Planning Commission, based on recommendations from professional(s) with expertise in the field being discussed.
4. The designation of land as within a Non-developable Sensitive Area Overlay Zone or within a Potentially Developable Sensitive Area Overlay Zone, and the application of other requirements imposed under the authority of this chapter may be appealed to the Providence City Appeal Authority, as provided for in Chapter 2-5 of this Code.

10-5-3: **HAZARD FLOOD ZONE (HF):**

- A. An Area which may be subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commercial and City services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which could adversely affect the public health, safety and general welfare of the citizens of the City. The Hazard Flood Zone (HF) as shown on the Zoning Map is based upon the flood hazard data provided to the

City by FEMA. Flood hazard data will be provided in the form of a Flood Insurance Rate Map (FIRM) (hereafter referred to as the "flood map") and a Flood Insurance Study (FIS) (hereafter referred to as the "flood study").

- B. Building Regulations: No dwelling unit, accessory building, church, school, public building, health care facility, residence or nursing home for the elderly or handicapped, nor any commercial, retail or industrial structure shall be constructed within a minimum distance as determined by the City from the top inside edge of the bank of any natural or manmade waterway that is located in a Hazard Flood Zone (HF). Under no circumstance shall any structure be permitted or constructed within thirty feet (30') of the top inside edge of the bank of any natural or manmade waterway that is located in a Hazard Flood Zone (HF).
- C. See Chapter 16 of this Title for flood plain regulations.

10-5-4: **HAZARD SLOPE ZONE (HS):**

- A. Conditional Use Permit Required: An area where the natural slope of the land exceeds an average gradient through the building zones of thirty percent (30%) or greater and lands within thirty feet (30') of any slope falling away at a grade of thirty percent (30%) or greater may be designated as the Hazard Slope Overlay Zone. Within the Hazard Slope Overlay Zone, no construction or earth moving activity shall occur until a conditional use permit has been obtained in compliance with the provisions of Section 10-3-5 of this Title. A conditional use permit shall not be considered until adequate plans and engineering data are delivered to the City showing that:

1. No building or structure is to be located on any existing slope with an average gradient through the building zone of thirty percent (30%) or greater, nor within thirty feet (30') of any slope falling away at a grade of thirty percent (30%) or greater; and
2. A detailed erosion control, revegetation and bank stabilization plan has been approved by the City Engineer for any disturbances planned to existing slopes within the Hazard Slope Zone; and
3. A detailed site plan for any buildings or earth moving activities (roads, driveways, sewer or water lines, etc.) that show the location of the planned facilities and how they would fit in with the existing slope and landscape of the area (as shown by before and after contours – see 4. below) has been approved by the designated Land Use Authority.

4. Contours should show the following:

Natural Ground	Unimproved earthen material existing at its original location of formation or deposition, which has not been reworked, mechanically altered, constructed or improved.
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Existing conditions	The ground as is presently exists.
Proposed conditions	The ground after the earth moving activities have taken place.

B. New Subdivisions: In the case of new subdivisions, these conditional use permit requirements for all public facilities (roads, sewer and water lines, etc.) within a Hazard Slope Zone (HS) shall be included in the final plat and construction drawing phases of the approval process and approval of the final plat shall serve as the ~~conditional use permit for uses within the Hazard Slope Zone, conditional use permit for roads, sewer, and water line and similar utility and infrastructure uses within the Hazard Slope Zone. An additional conditional use permit shall be required for the construction of buildings or structures, including homes, garages, and other such improvements within the Hazard Slope Zone (HS).~~"

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10-5-45: **HAZARD WATER TABLE ZONE (HW):** Areas where potential ground water levels may occur within 12 feet of the natural grade may be designated as Hazard Water Table Overlay Zone. Within a Hazard Water Table Overlay Zone, no permit shall be issued for any construction or use until a conditional use permit has been obtained in compliance with the provisions of Section 10-3-5 of this Title. A conditional use permit shall not be approved until adequate plans and engineering data are delivered to the Land Use Authority showing that no basement or cellar is to be built, that the percentage of the lot, parcel or site to be covered by buildings, parking spaces and paved surfaces does not exceed forty percent (40%) of the area of the lot, parcel or site and that the proposed use is not of a character to increase quantities of chemicals, fertilizers, pesticides or minerals or in any other way likely to contaminate the groundwater.

10-5-6 : **HAZARD EARTHQUAKE PRIMARY FAULT ZONE (HE):** No construction shall be permitted in any identified Hazard Earthquake Primary Fault Zone (HE) and/or landslide area until a conditional use permit has been obtained in compliance with the provisions of Section 10-3-5 of this Title. Said conditional use permit shall not be given until adequate plans and engineering data are provided showing:

- A. Location of Structures: Where public facilities, occupancy facilities, large structures and sewer and water systems are to be constructed. Detailed geotechnical investigations may be required so as to accurately and very specifically locate faults and/or landslide areas;
- B. Lines and Systems: Any sewer lines or disposal systems located beneath culinary water facilities; and
- C. Ground Response Map: Ground response maps identifying the areas most susceptible to ground motion. (Zon. Ord., 5-8-1991)

10-5-7 : HAZARD WILDFIRE ZONES: Areas having moderate to extreme potential for wildfire hazards shall be designated with the Hazard Wildfire Overlay Zone. Within the Hazard Wildfire Overlay Zone:

- A. Development shall provide for ready access to fire and other emergency equipment and for routes of escape to safely handle evacuations.
- B. Measures to mitigate wildfire hazards and risks may be required by the appropriate Land Use Authority based on the recommendation and review of the Fire Marshall.
- C. Property owners are encouraged to implement the following:
 - 1. Construct the roof with fire-resistant materials like tile or metal, asphalt or fiberglass shingles. Clean roof surfaces and gutters of pine needles, leaves, branches, etc. regularly to avoid accumulation of flammable materials.
 - 2. Inspect your property regularly, clearing dead wood and dense vegetation from at least 30' around your house. Rake piles of leaves and twigs. If on a hill, more space will be needed to protect your home. A fuel break should be maintained around all structures.
 - 3. Move firewood away from the house or attachments like fences or decks.
 - 4. Cover vents with wire mesh no larger than 1/8 of an inch to keep sparks from enter your home through vents.
 - 5. Driveways should be wide enough for firefighting equipment to maneuver.

10-5-8: ~~ENGINEERING GEOTECHNICAL REPORT: For those areas identified as an active or potential mapped earthquake fault and landslide areas, or areas determined by review to contain geologically unstable conditions, development may be permitted by the designated Land Use Authority upon the review and approval of an engineering geotechnical report.~~

- ~~A. The engineering geotechnical report shall be prepared by a licensed geotechnical engineer. The report shall be signed and dated by the preparer and shall also include the qualifications of the preparer.~~
- ~~B. The report shall be site specific and identify all known or suspected potential geotechnical or natural hazards, originating on site or off site, affecting the particular property.~~
- ~~C. The report shall include a detailed site map showing the location of the hazard(s) with delineation of the recommended setback distances from such hazard(s) and the recommended location for proposed structures.~~
- ~~D. The report shall address the potential effects of the hazard(s) on the proposed development and occupants thereof, in terms of risk and potential damage.~~

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E. The report shall contain recommendations for avoidance or mitigation of the effects of the hazard(s). The evidence on which the recommendations and conclusions are based shall be clearly stated in the report. Trench logs, soil borings, aerial photographs, references with citations, and other supporting information as applicable, shall also be included in the report.

F. All engineering geotechnical reports submitted to the City shall be reviewed by the Utah geological survey for completeness, accuracy, and appropriate recommendations.

~~10-5-9~~ 10-5-8. **ENGINEERING GEOTECHNICAL REPORT:** For those areas identified as an active or potential mapped earthquake fault and landslide areas, or areas determined by review to contain geologically unstable conditions, and for all areas designated by a Sensitive Lands Overlay Zone Hazard Slope Zone (HS) or Hazard Primary Fault Zone (HE), development may be permitted by the designated Land Use Authority upon the review and approval of an engineering geotechnical report that complies with the provisions of this section. If a conditional use permit is required, the engineering geotechnical report shall be considered in the review of the conditional use permit application.

A. The site-specific soil/geologic report by a qualified geotechnical engineer shall identify all geologic hazards, whether on or off-site, if such hazard or hazards affects the particular property including the following hazard(s), unless determined prior to the preparation of the report by the City Engineer that the specific potential hazard or hazard does not need to be considered in the report:

1. Flood history and potential; proximity to known canals, lakes, streams and alluvial fan flooding;
2. Definition of any zones of deformation with respect to active faults and recommended setbacks therefrom;
3. Evidence for other mass movement of soil and rock (landslides, debris flows, rock falls);
4. Identification of anomalies of the terrain or characteristics of the geological materials which would have any potential impact upon the use of site;
5. Determination of ground water characteristics; and
6. Uncontrolled fill material within the building envelope of a lot or other uncompacted soils.

B. The report shall contain written recommendations for construction of structures and avoidance or mitigation of the hazards. Land drains alone through private property are not allowed and are discouraged through public property because long-term maintenance of drains cannot be guaranteed;

C. The report shall consider and contain data regarding the nature, distribution, and strength of soils within the project area. The soil report shall include a unified classification of all soils with an estimate of susceptibility to erosion, plasticity index, liquid limit, shrink-swell potential, and general suitability for development;

D. The report shall contain an estimate of the likely highest level of the water table considering the long-term effects of development and irrigation.

E. The report shall include a statement by the qualified geotechnical engineer

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1 preparing the report that the safety and integrity of the proposed building or structure
2 is not compromised by potential geologic hazards and that the proposed building or
3 structure, as designed and proposed, can be built in a manner that complies with the
4 soils, footings and foundation requirements of the applicable building code.

5 F. After the application is received by the City, the geologic and soil report will be
6 reviewed by staff and, if the report finds that geologic hazards exist, the report will be
7 reviewed by other geotechnical advisors which may include the Utah Geologic Survey
8 (UGS). If after review, the geotechnical advisors concur with the geologic and soil
9 report and the proposed remedial measures submitted by the applicant, the item will
10 be forwarded to the land use authority designated to review the application for a
11 conditional use permit.

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12 G. The required reports and the plans to address the concerns set forth in those
13 reports shall be stamped and approved by a licensed professional engineer. If the City
14 Engineer does not agree with the applicant's geologic and soils report, the City and the
15 applicant for a conditional use permit may utilize the procedure for resolving such
16 disputes found in Utah Code Ann. 10-9a-703(20 for the appeal of a determination
17 made under a municipality's geologic hazards ordinance.

18 H. As provided in Section 10-3-5(E)(4) of this Ordinance, a conditional use permit may
19 be denied, and use of the property therefore prohibited, if geologic hazards associated
20 with the property cannot be substantially mitigated by the imposition of reasonable
21 conditions and/or the requirements of the geologic and soil report and the provisions
22 of the applicable building code related to soils, footings, and foundations are not met.

23 G. —

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25 10-5-10 : DISCLOSURE OF NATURAL HAZARD BY ENGINEERING

26 GEOTECHNICAL REPORT: Wherever a potential natural hazard is identified by a required
27 geotechnical report under this chapter, the owner of such parcel shall record a restrictive
28 covenant running with the land in a form satisfactory to the City prior to the approval of any
29 development or subdivision of such parcel, which shall include the following:

- 30 A. Notice of the existence and availability of the engineering geotechnical report that
31 identifies the natural hazards for public inspection in the City Office; and
32
33 B. An agreement by the owner of the parcel and any successor in interest to comply
34 with any conditions set by the City to minimize potential adverse effects of the
35 natural hazard(s).
36

37 10-5-10: DISCLOSURE OF OTHER NATURAL HAZARDS: At any time after the designation of a
38 particular parcel of land, or any portion thereof, as within a Sensitive Land Overlay Zone, the
39 City may cause to be recorded at the Office of the Cache County Recorder a notice related to
40 that land stating that the land lies within a Sensitive Land Overlay Zone. The notice may state
41 that the construction of buildings and improvements on that land is subject to the provisions of
42 the Providence City Ordinances related to Sensitive Lands, including a potential requirement to
43 obtain a conditional use permit prior to the construction of a home or other buildings,
44 structures or improvements on the land. Use of the land may not be allowed until a
45 professional review is conducted, as provided in city ordinance, and reports are submitted that
46 establish that any proposed home, building, or other structures or improvements to be erected
47 upon the land can be built in compliance with relevant building codes and appropriate soil,

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1 | flooding, and earthquake requirements. If qualified professionals cannot establish that a
2 | proposed use of the land can be conducted in a manner that complies with the health and
3 | safety provisions of the building code and other relevant standards, the proposed use of the
4 | land may be prohibited.
5 |
6 |
7 |